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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**JACQUELINE BRADLEY,**

**Plaintiff and Appellant,**

**v.**

**EAST BAY PARATRANSIT  
CONSORTIUM/INTELITRAN,**

**Defendant and Respondent.**

**A092950**

**(Alameda County  
Super. Ct. No. 8281182)**

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Jacqueline Bradley appeals contending the trial court erred when it denied her petition for a writ of review. We disagree and will affirm the court’s judgment.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

East Bay Paratransit Consortium/Intelitran (East Bay Paratransit) was established in 1996 to provide public transit service to “paratransit eligible” individuals. A “paratransit eligible” individual is one who is unable, without assistance, to use ordinary public transit services. (See 49 C.F.R. § 37.123(e)(1) (2000).) Under federal law, paratransit services must be provided to individuals who satisfy requirements set forth in Department of Transportation regulations. (49 C.F.R. § 37.123(a) (2000).)

East Bay Paratransit, as a paratransit provider, is responsible for determining whether individuals are eligible for its services. (49 C.F.R. § 37.125 (2000).) When East

Bay Paratransit commenced operations, individuals who were already receiving service from local paratransit agencies were permitted to continue receiving services until required to “re-certify” for eligibility under East Bay Paratransit procedures.

Appellant Jacqueline Bradley apparently was receiving paratransit services when East Bay Paratransit was established. In 1999, she was required to “re-certify” her eligibility. Appellant submitted an application to East Bay Paratransit. Following established agency procedures, the application was reviewed by a certification specialist who recommended that appellant be denied further services because she did not meet the eligibility requirements. The certification specialist’s recommendation was reviewed and approved by East Bay Paratransit’s manager of certification. The denial was then reviewed and approved again by the general manager of East Bay Paratransit.

Appellant appealed the denial. Again, following established agency procedures, the appeal was considered by a panel of transportation representatives<sup>1</sup> at a hearing held in March 2000. Appellant has not provided a transcript of that hearing; however, at its conclusion, the panel voted unanimously to uphold the denial of services to appellant.

Appellant then filed a petition for writ of review in the Alameda County Superior Court. Raising a single issue, appellant argued it was “the duty of [East Bay Paratransit] to recertify [her] for paratransit service in that no evidence [had] been adduced at [the] hearing in opposition to the testimony of petitioner and her medical care providers to the effect that she is in need of and entitled to paratransit services.”

East Bay Paratransit opposed the petition arguing appellant was not entitled to a writ of review because she had not alleged there was any irregularity in East Bay Paratransit’s procedures.

The trial court considered appellant’s request for a writ at a hearing held on July 31, 2000. Again, appellant has not provided a transcript of that hearing. The record does reflect that at the conclusion of the hearing, the court declined to issue the writ,

explaining its decision as follows: “East Bay Paratransit followed all required procedures in evaluating Petitioner’s application for services. A Writ of Review is not a Writ of Error and cannot take the place of an appeal, but is simply a review of the proceedings in an inferior tribunal to determine whether the authority of the tribunal has been regularly pursued.”

This appeal followed.

## II. DISCUSSION

Appellant contends the trial court erred when it denied her petition for a writ of review.

A statutory writ of review, also known as a writ of certiorari, serves a narrow function. Its sole purpose is to determine whether “an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board or officer . . . .” (Code Civ. Proc. § 1068, subd. (a); see also *New York Times Co. v. Superior Court* (1990) 218 Cal.App.3d 1579, 1583.) The term “jurisdiction” in this context has a broader meaning than is usually associated with the term. (See *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 454-455.) A writ of review may be granted where the tribunal, board or officer in question “has no jurisdiction to act except in a particular manner, even though it has jurisdiction, in the fundamental sense, over the subject matter and the parties.” (*Rescue Army v. Municipal Court* (1946) 28 Cal.2d 460, 463-464.)

The parties disagree on what is the appropriate standard of review. Appellant contends that because the trial court was asked to make a legal decision, its decision should be reviewed de novo on appeal. East Bay Paratransit counters that the trial court’s ruling was essentially factual and should be upheld if it is supported by substantial evidence. Neither party has cited authority that is directly on point, however. Even if we were to assume appellant is correct, we find her argument unpersuasive.

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<sup>1</sup> According to East Bay Paratransit’s rules, the appeals panel includes representatives from BART, AC Transit, an independent mobility professional, the Ridership Advisory Council, and a disabled transit customer.

Appellant does not challenge the “jurisdiction” of East Bay Paratransit even in its broadest sense. Instead, she challenges the sufficiency of the evidence presented at the March 1999 hearing before the appeals panel of transportation experts. However, appellant has not provided this court with a transcript of the March 1999 hearing, so we have no way of determining what evidence was presented, and no way to evaluate whether that evidence was adequate to support the appeals panel’s decision.

A judgment or order is presumed to be correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) “[A] party challenging a judgment has the burden of showing reversible error by an adequate record.” (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574.) Here, absent proof to the contrary, we must and will presume the record before the appeals panel was adequate to support its decision.

The trial court correctly declined to issue the writ.<sup>2</sup>

### III. DISPOSITION

The judgment denying the petition for a writ of review is affirmed.

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Jones, P.J.

We concur:

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Stevens, J.

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Simons, J.

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<sup>2</sup> Appellant raises one additional argument. She contends the appeals panel failed to follow its own regulations because it did not issue a written opinion explaining its decision. We decline to address this argument because appellant never raised it in the court below. (See

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*Williams v. City of Belvedere* (1999) 72 Cal.App.4th 84, 92, fn. 2.) Indeed, since appellant first raised this issue in her reply brief, it is “doubly waived.” (*Ibid.*)